

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: COLOPLAST CORP.
PELVIC SUPPORT SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL 2387

Vicki Suzanne Fred, et al. v. Mentor Worldwide LLC, et al. *2:13-cv-026694*

MEMORANDUM OPINION AND ORDER

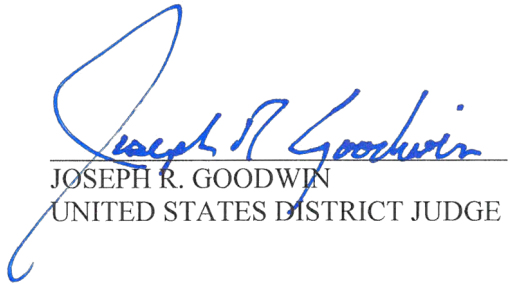
Pending is Defendant Coloplast Corp.'s ("Coloplast") and Defendant Mentor Worldwide LLC's ("Mentor") Motion to Dismiss with Prejudice, filed on March 26, 2019. [ECF No. 17]. Coloplast and Mentor cite to plaintiffs' failure to timely serve a Plaintiff Fact Sheet ("PFS") and expert disclosures in violation of Coloplast Pretrial Order # 142. Plaintiffs have not responded to the motion.

The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that this case should be dismissed without prejudice for failure to provide a PFS and expert disclosures in compliance with the court's previous order.

Therefore, the court **ORDERS** that the Motion to Dismiss with Prejudice filed by Coloplast and Mentor [ECF No. 17] is **GRANTED in part** to the extent Coloplast and Mentor seek dismissal and **DENIED insofar as Coloplast and Mentor seek dismissal with prejudice**. The court **ORDERS** that the case is dismissed without prejudice and stricken from the court's docket.

The court **DIRECTS** the Clerk to send a copy of this order to counsel of record.

ENTER: September 4, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE